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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,423	01/24/2002	Simon Alexander Hanson Rose	AG/3-21900/A/AC 509/DIV 2	1070

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EXAMINER

QAZI, SABIHA NAIM

ART UNIT PAPER NUMBER

1616

DATE MAILED: 04/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/057,423

Applicant(s)

SIMON ALEXANDER HANSON  
ROSE

Examiner

Sabiha Naim Qazi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 27 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1,6-8,10,11 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1, 6-8, 10, 11 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Acknowledgement is made of the response filed in paper no. 7 filed on 1/27/03. Amendments are entered. Amendments are entered. Claims 1, 6-8, 10, 11 and 17 are pending. No claim is allowed at this time. Rejection under 35 U.S.C. 112, second paragraph is withdrawn because claims are amended. Rejection over DE reference is withdrawn because arguments are found persuasive. Claims are amended to 60 to 80% anionic monomer and 20-40% nonionic monomer, to overcome the rejection. No example was found showing these amounts. In absence of unexpected results claims are considered obvious over the prior art of record.

Claims 1, 6-8, 10, 11 and 17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over EP 586,911 and Sylling et al. WO 85/01938. The references teach a polymeric soil improvement compositions, which embraces applicant's claimed invention. See the entire documents especially lines 10-30 on page 3; examples and claims in Sylling et al. and lines 36-50 and lines 1-30 on page 3; lines 4-40, page 4; Tables and examples.

**1. Determining the scope and contents of the prior art.**

EP '911 teaches a composition for the treatment of soil containing an anionic fertilizer and anionic polymer such as polyacrylamide and 97 to 0 mole percent of different water-soluble monomer or salts thereof. See the entire document especially lines 36-50 and lines 1-30 on page 3; lines 4-40, page 4; Tables, examples and claims. The composition is added to water prior to irrigating an area of soil. See claims 8 and 10.

WO reference teaches a composition for soil treatment comprising anionic polymeric materials such as copolymers of acrylic acid, methacrylic acid (lines 11-21 on page 4).

**2. Ascertaining the differences between the prior art and the claims at issue.**

Prior art EP '911 teaches gel composition and instant is aqueous composition.

Prior art does not specific viscosity, which is instantly claimed.

**3. Resolving the level of ordinary skill in the pertinent art.**

Prior art EP '911 teaches gel composition and instant is aqueous composition. These are considered obvious to one who is familiar with the art. Gel or solution form of a composition is considered optional in absence of unexpected results. See for example Erythromycin, which is sold in the market as 2% gel, as 2% solution and as 2% ointment. See page 3060 in "drug, facts and comparisons, 1999 edition, (A Wolters Kluwer Company, St Louis). So the different forms as cited above are optional and would have been obvious at the time of invention.

a) Gels are prepared in large amount of water, see for instance page 1518, (Remington reference), where ephedrine sulfate gel is prepared by adding 830 ml of water for 10.0 gms of ephedrine.

b) The viscosity would be the same for anionic polymer taught by EP '911. It is known that a chemical compound and its properties for example viscosity, melting point, density etc. are inseparable to the compound. See *In re Spada*, 15 USPQ (2d) 1655, 1658.

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- c) Styling reference teaches an aqueous composition.
- 4. **Considering objective evidence present in the application indicating obviousness or nonobviousness.**

One having ordinary skilled in the art would be motivated at the time of invention to prepare beneficial compositions for the improvement of soil because prior art cited above teach the composition useful for the same. There has been ample motivation provided by the prior art to prepare the composition as instantly claimed. Since the viscosity of the prior art is not disclosed, presently claimed invention is considered obvious in absence of showing ant unexpected results.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

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the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sabiha Naim Qazi whose telephone number is 703-305-3910. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees can be reached on 703-308-4628. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4556 for regular communications and 703-308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

  
SABIHA QAZI, PH.D  
PRIMARY EXAMINER  
April 16, 2003